

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

JOHN EMBRY,

Plaintiff,

Case No. 3:20-cv-496

vs.

SIMON & SIMON, PC, *et al.*,

District Judge Michael J. Newman
Magistrate Judge Peter B. Silvain, Jr.

Defendants.

**ORDER (1) DISMISSING PLAINTIFF’S COMPLAINT WITHOUT PREJUDICE FOR
NON-PROSECUTION AND (2) TERMINATING THIS CASE ON THE DOCKET**

This civil case is before the Court *sua sponte* for dismissal of Plaintiff’s complaint pursuant to Fed. R. Civ. P. 41(b). Plaintiff filed a complaint on December 15, 2020 accompanied by a motion for leave to proceed *in forma pauperis*. Doc. Nos. 1, 2. The Court granted Plaintiff’s application to proceed *in forma pauperis* on December 16, 2020 and found that dismissal of his complaint under 28 U.S.C. § 1915 was not warranted. Doc. No. 3. Plaintiff, however, failed to notice on the Court’s docket that service was completed within the 90-day period set forth in Fed. R. Civ. P. 4(m). Doc. No. 4. Accordingly, the Court ordered Plaintiff to show cause, on or before March 24, 2021, why service was not timely perfected or to evidence service on the Court’s docket. *Id.*

Plaintiff has failed to satisfy the Court’s Show Cause requirement as of the date of this Order, and the Court has received no indication that service was attempted or accomplished. *Id.* Therefore, the Court finds Plaintiff has no intention to prosecute his claims and dismissal of his complaint is warranted. *See, e.g., Knoll v. Am. Tel. & Tel. Co.*, 176 F.3d 359, 362–63 (6th Cir. 1999) (quotations omitted) (“Rule 41(b) of the Federal Rules of Civil Procedure gives courts the

authority to dismiss a case for ‘failure of the plaintiff to prosecute or to comply with these rules or any order of the court.’ This measure is available to the district court as a tool to effect ‘management of its docket and avoidance of unnecessary burdens on the tax-supported courts [and] opposing parties’’).

The Court, therefore, (1) **DISMISSES WITHOUT PREJUDICE** Plaintiff’s complaint and (2) **TERMINATES** this case on the docket.

IT IS SO ORDERED.

Date: July 1, 2021

s/Michael J. Newman
Hon. Michael J. Newman
United States District Judge